

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: January 14, 2015

Item: Wolf Construction, 2202 Wolf Way –Thirty (30) foot variance from the fifty (50) foot side yard building setback requirement to permit the construction of a 34,800 square foot storage building – Scott Wolfswinkel – VAR-002564-2014

Requested Action: Denial of a Variance

Case Advisor: J. Bradley Munford 

Applicant's Request: The applicant, Scott Wolfswinkel is requesting a 30 foot variance of the 50 foot required side yard in order to accommodate the construction of a 22 to 24 foot tall, 34,800 square foot storage building within the Light Industrial zoned property at 2202 Wolf Way. Table 7.9 in Title 9, *Zoning, Chapter 7, Setback and Bulk Density Regulations*, Subsection 4, *Setback and Bulk Density Regulations* of the City Code requires a side yard setback of no less than fifty (50) feet. The applicant is desiring a setback of twenty (20) feet consistent with the setback of the other existing buildings along this boundary necessitating the thirty (30) foot variance. The proposed building is intended to be used for indoor storage for the construction company.

The applicant has provided extensive communication of his findings for the proposed variance (see attachment C).

History: The property was previously used as bus barn and maintenance facility for the West Des Moines School District. The property was zoned M-1 (Light Industrial) at the time of the maintenance facility development in 1980. The largest easternmost building and the smallest westernmost building were constructed at that time. In 1991, the bus barn on the northwest corner of the property was constructed. All of the buildings were constructed using the M-1 side yard setback requirement of 20 feet. In 1998, the city completed consistency zoning to the new zoning classifications and the property was designated to its current classification of Light Industrial (LI). The side yard setback requirement for this district is 50 feet. Since the existing buildings were constructed in accordance with the original M-1 setback requirements, they are considered legal non-conforming. According to the Polk County Assessor records, the applicant purchased the property from the school district on November 6, 2007.

Staff Review and Comment on the Variance Requests: This request was distributed to other City departments and other agencies for their review and comment. Staff notes the following:

- **Further Site Development Review is Required:** While the applicant has submitted basic illustrations for the development of the site, this is not a Site Plan or Major Modification application. A complete Major Modification application package with full development details will need to be submitted for review and approval prior to development of the site. Development of the site will need to abide with all current City Codes. If the proposed variance is approved, it should not be considered an indication of approval of a future Major Modification application.

Noticing Information: On December 26, 2014, a notice of the January 14, 2015, Board of Adjustment public hearing was published in the *Des Moines Register*. Notice of this public hearing was mailed to all surrounding property owners within 370 feet of the subject property on December 23, 2014.

Variance Findings. Title II of the City Codes discusses the variance procedure. All five (5) of the following conditions must be met in order to grant a variance. Based upon a review of the submitted variance request, staff has made the following findings on the proposed project:

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan. *The Comprehensive Plan identifies a land use of Light Industrial for this property. The property is zoned Light Industrial (LI). The proposal complies with said designations.*

2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones. *Although the setback requirements have changed, there are no physical site characteristics so unique that a building design could not be created which complies with code.*
3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest. *In this case, the applicant is requesting to tear down an existing legal non-conforming building and construct a larger one in its place. Included as Attachment C are several arguments provided by the applicant with the primary reason being that a hardship is found in the fact that internal truck circulation would be greatly impacted if the building is constructed at the 50 foot setback. That is true for this particular size and shaped building; however, it would be possible that a smaller building or a building of a different shape could be constructed without such an impact on truck traffic and circulation. The applicant is choosing to build this size and design of building. Complying with the code would be an inconvenience for the applicant, but not an unnecessary hardship.*
4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment. *There are no changes proposed that detrimentally affect the site, its surroundings or the environment. While characteristic of industrial areas, it should be realized that this is a very large building to be located immediately adjacent to residential. There are topographical differences between this property and the adjoining residential which naturally aid in mitigating the building's presence on the adjoining properties. The property was zoned and developed as industrial 9 years prior to the development of the adjacent residential.*
5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. *In this case, the applicant is not making a request that would harm the health, safety or welfare of the community. However, the quality of life of nearby residential neighbors could be impacted by the proposal. Staff has been contacted by a few neighbors concerned about noise generated from truck and loading equipment loading and unloading materials into this size of a building, the building being so close to the property boundary, the appearance of the structure and in some places, the lack of year round screening. While it will not be possible to completely mitigate the presence of the building to the residential, Staff informed the residents that issues such as screening and appearance are site plan issues that can be addressed as part of the Major Modification process if this case for a reduced setback is approved. The noise issue is a bit more complicated. Currently, without the building, the applicant can store and move materials and equipment on the paved areas that are now 20 feet from the property line. On one hand, it could be argued that containing the generated noise within a building is better than no building at all. On the other hand, having a building that contains the noise and is also further away from residences could be seen as a better alternative because it addresses the community's noise concerns, complies with ordinance and gives the applicant enclosed storage space.*

Staff Recommendations and Conditions of Approval for the Variances: Although consistent with the Industrial land use designation of the Comprehensive Plan, due to the findings stated above, staff recommends the Board of Adjustment adopt a resolution denying the variance request.

Property Owner and Applicant: Scott Wolfswinkel
Wolf Construction
2202 Wolf Way
West Des Moines, Iowa 50265
swolf@wolfconstruction.net

Attachments:

- | | | |
|--------------|---|---|
| Attachment A | - | Resolution of Denial of Variance Request |
| Attachment B | - | Location Maps |
| Attachment C | - | Letters from applicant |
| Attachment D | - | Pictures from site and surrounding property |

Prepared by: J. B. Munford, West Des Moines Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3630
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

RESOLUTION

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, DENYING THE VARIANCE REQUEST (VAR-002564-2014) FOR A 30 FOOT VARIANCE OF THE REQUIRED 50 FOOT SIDE YARD SETBACK FOR THE CONSTRUCTION OF A 34,800 SQUARE FOOT STORAGE BUILDING AT 2202 WOLF WAY.

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Scott Wolfswinkel, has requested approval of a variance from Title 9, *Zoning*, Chapter 7, *Setback and Bulk Density Regulations*, Subsection 4, *Setback and Bulk Density Regulations* Table 7.9 *Bulk Regulations for Principal and Accessory Structures in Industrial, Office and Open Space Districts*, for a variance of 30 feet of the required 50 foot side yard setback to allow for the construction of a 34,800 square foot storage building at 2202 Wolf Way, which is legally described as:

Legal Description of Property

ALL OF THE WEST 480 FEET OF THE EAST 1337.45 FEET OF THE SOUTH 453.75 FEET OF THE NORTH 1313 FEET OF THE NORTH HALF OF THE NORTH EAST QUARTER OF SECTION 15, TOWNSHIP 78 RANGE 25, LOCATED WITHIN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on January 14, 2015, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (VAR-002564-2014);

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The Variance Request (VAR-002564-2014), of a thirty (30) foot variance from the fifty (50) foot side yard building setback requirement to permit the construction of a 34,800 square foot storage building at 2202 Wolf Way is **denied**.

PASSED AND ADOPTED on January 14, 2015

Jennifer Drake, Chairperson
Board of Adjustment

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on January 14, 2015, by the following vote:

AYES:

NAYS:

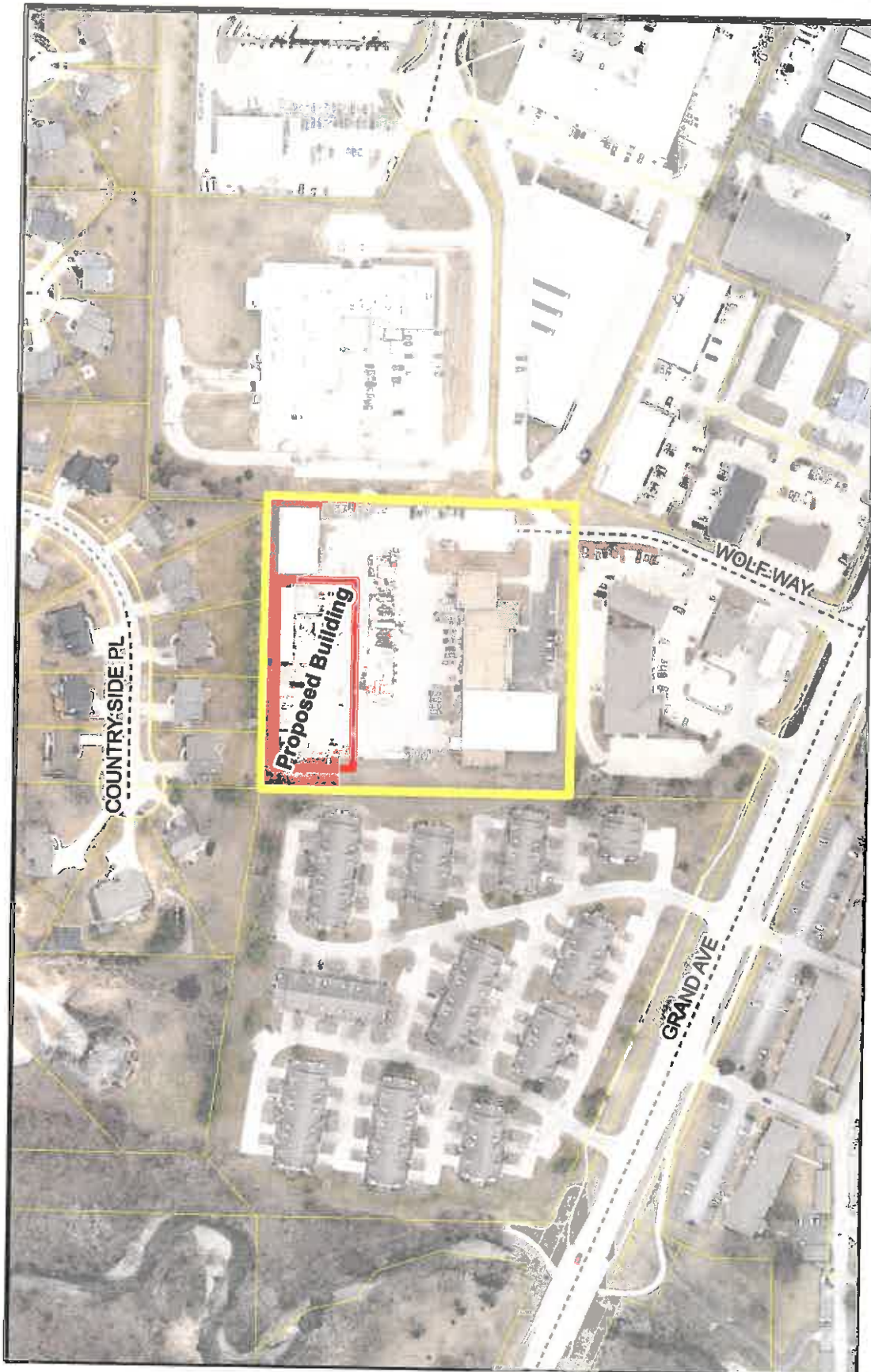
ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

ATTACHMENT B



Wolf Construction
Proposed building
VAR-002564-2014



NOT TO SCALE



Wolf Construction
Proposed building
VAR-002564-2014



NOT TO SCALE



To: West Des Moines Zoning Board of Adjustment

From: Scott Wolfswinkel

We are requesting a Variance for the Setback Requirements for the addition of a building for warehousing purposes. It is our intention to build a 35,000 sq.ft. building on the southwest corner of our property to serve as a warehouse. To accommodate this structure, we need the structure to fit the original setback requirements. As we understand the history of this property, the zoning changed in 1998, which in turn changed the setback requirements. Here is a summary of how our proposed building meets your requirements to approve a variance. I believe these bullet points follow the format set forth in your Variance Application paperwork:

- 1) Consistency with the West Des Moines comprehensive plan –The proposed building does not change or impact the existing neighborhood. The use and function of our property will be the same as it has always been.
- 2) Only having access to our property from the north east limits what, where, and how we can expand our operations. Placement of additions or additional buildings is very limited. (see item #3 for further details).
- 3) Strict application to the zoning regulations resulting in practical difficulties – I've included two site plans to help illustrate potential difficulties. Site Plan A shows our proposed location. Site Plan B shows the strict adherence to the zoning requirements, in this case adherence to the setback requirements.

Here are a couple of problems that will create a 'practical difficulty' if we adhere to the new setback requirements.

- a. The area immediately to the west of the proposed building would become un-accessible and unusable space. This would be approximately 8,700 sq. ft. of lost space to our business.
- b. We ship and receive a lot of our equipment and materials on semis and trailers. If we position the building in such a way to meet the setback requirements, then the only way into or out of our yard is a very tight turn (indicated in orange on the site plan). It is possible to make this turn, but leaves no room for error with parked cars in the north parking zone, the curb and green space on the south side, and our bulk diesel fuel container on the west side.

2202 Wolf Way | West Des Moines, IA 50265 | Toll Free: 877-WOLFWAY (965-3929) Local: 515-225-8866 | Fax: 515-327-1830

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- c. Once a semi and trailer makes the right hand turn into our back lot, it is not possible to turn around. I believe this is the point at which we face unpractical difficulties or hardships in our operation. We need the ability to make and receive deliveries with semis in our back lot.
- d. We have a loading dock door on our existing building that we also need access to. Semis would not be able to pull around far enough to the west in order to get a trailer backed up to this door.
- 4) Impact to the character of the site that affect the environment – The section of property in question (SW corner of lot) is currently used for storage of materials, vehicles, equipment and trailers. There is fencing and landscaping along this boundary that creates a visual separation from our property and our neighbors'. For all practical purposes the building would go unseen by our neighbors. It is also important to note that the impermeable surfaces and green space would not be affected by the placement of the proposed building.
- 5) Granting such variance will not adversely affect the health or safety of persons, is not detrimental to the public, nor injurious to nearby properties – Our request does not change the function of this property and does move business operations further away from our neighbors as most of the daily activity will now be in the middle of the property.

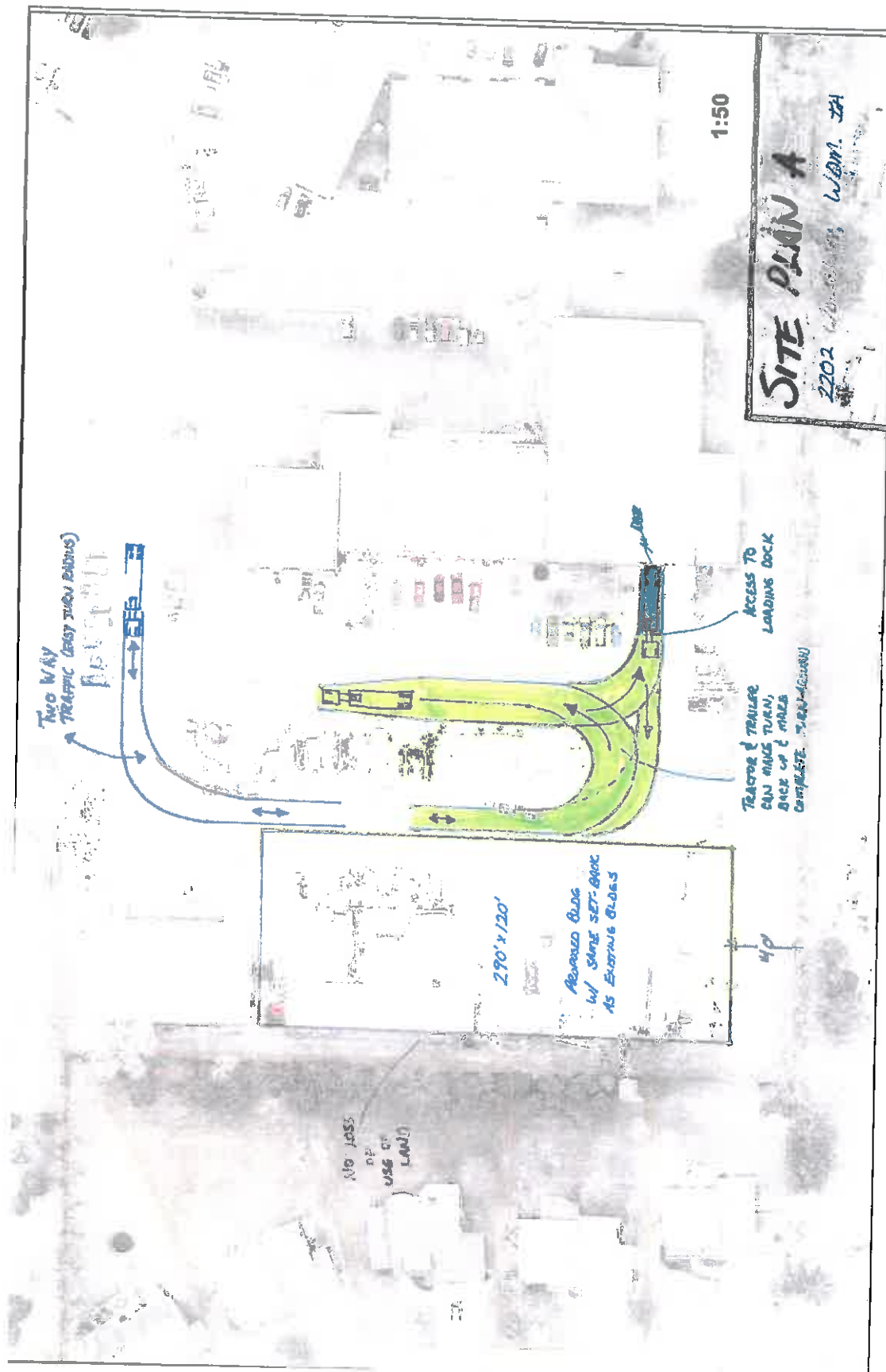
Please accept this letter along with our application for Variance. It is our intention to actively participate in this process. Myself and/or company representative will be available for questions and meetings to discuss this further. Thank you.

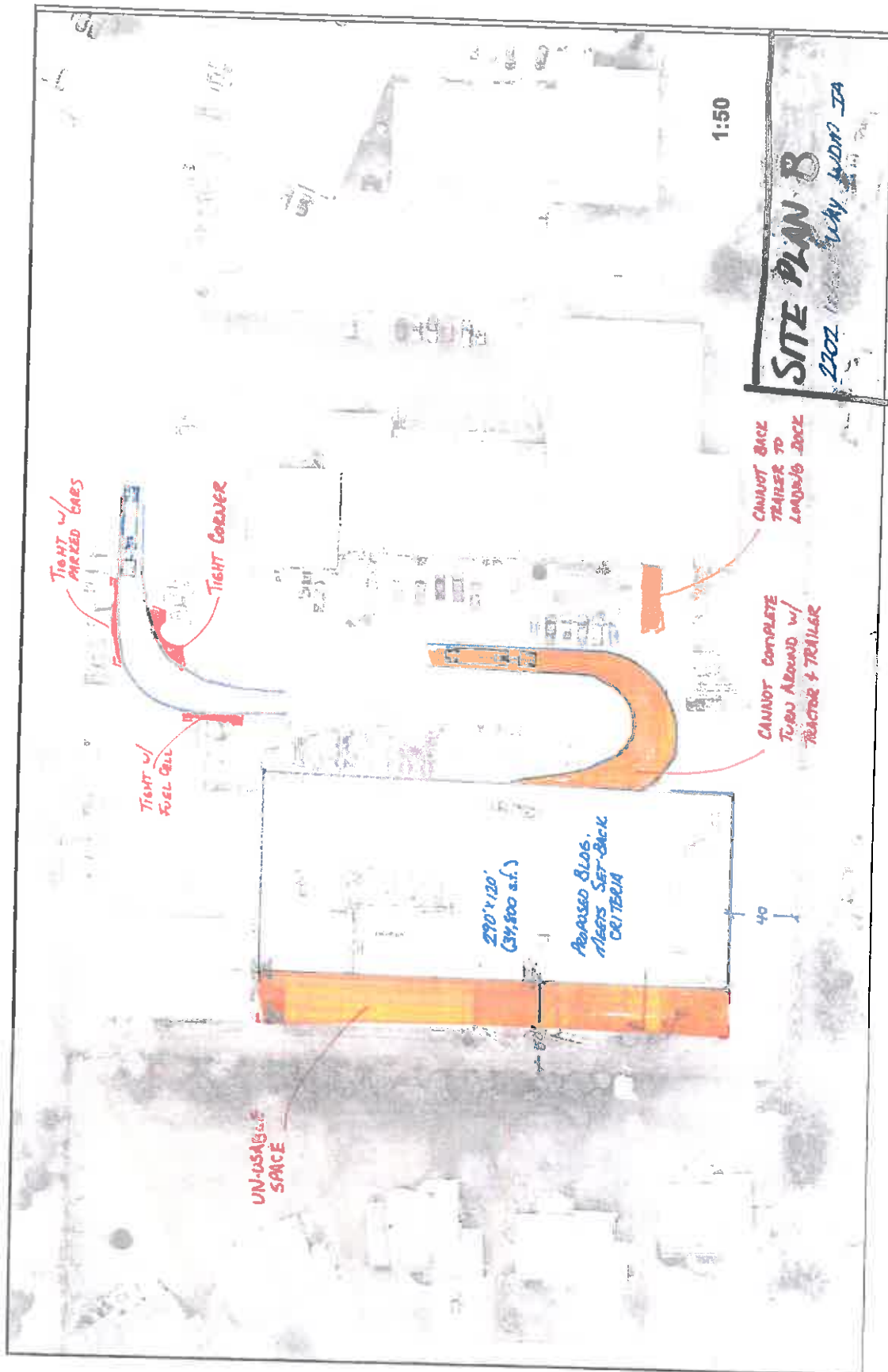
Respectfully submitted,

A blue ink signature of Scott Wolfswinkel, consisting of a stylized, cursive script that begins with a large 'S' and ends with a long, sweeping horizontal stroke.

Scott Wolfswinkel

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December 26, 2014

This supplemental letter is in response to a letter from the City of West Des Moines dated 12/16/2014 and should be considered in addition to our original letter submitted with the Request for Variance.

As our operation expands and grows, we have found a need for more indoor storage (warehouse) space. We recognize we are requesting a significant amount of square footage and approval of such a variance shouldn't be taken lightly. We also understand that our neighbors have a vested interest in what happens on our property.

It is our understanding in the initial review of our project, there are two items that appear to fall outside of the criteria for variance approval. The first is that there are no special circumstances to the subject property with regard to size, shape, topography, or location. The second is that we shall not self-impose any hardships in the granting of this request. In the process of clarifying our thoughts and ideas on these two items, I'll make the case that both of these items are interconnected and require being addressed simultaneously.

In our consideration for adding a warehouse, the size of the structure, the shape of the structure, etc, we took into account a lot of factors and considered our options. The factors below are in no particular order, but we believe are for the greater good of the neighborhood and community.

- a) Property values – Improved property is typically more valuable than bare land or concrete. In this case, it is all but guaranteed to be more valuable as warehouse rather than a place to park semi-trailers and equipment. Our property AND surrounding properties will benefit from an improved property.
- b) Underutilization – Our back parking lot is under-utilized. When our lot is full of equipment and vehicles...Wolf Construction has problems.
- c) Inventory – We can buy in bulk or bring left over materials back to our site. We can keep unused equipment indoors rather than leaving them exposed to the elements. If wood and related products are left exposed to the elements for more than a month, they are deemed unusable by new construction standards and will rot away.
- d) Opportunity – Warehouse space is at a premium and gives our business another source of potential revenue. We are often approached by local businesses to store their inventory and product. In some cases it will be for a few weeks, but in other instances it could be rented for months or years. With easy access to the interstate from Grand Ave, this location is an easy drive for semis.
- e) Surrounding Properties – There are multiple adjacent properties to the north and east with similar sized, similarly used buildings. A project of our size and shape will fit in the landscape of this neighborhood.
- f) Backdoor Neighbors View - In thinking about neighboring properties to our west, we considered their view. First of all they are elevated so their view is almost an aerial view. In addition to that, there is a pretty well established 'wall' of plants and trees that block their view. Placing the building as close to that 'wall' as possible actually hides the building more than placing it in the middle of the lot. Additionally, we will have less stuff (ie trailers, materials, and equipment) parked in plain sight.
- g) Activity - Through the course of normal business, we ship and receive heavy equipment and materials. This activity takes place all across the back lot, including right up to the west property line. Placement of a building in this location will centrally locate the activity, effectively moving it away from our neighbors. The sights and sounds will be reduced from their view, giving them more privacy and fewer distractions.

- h) **Size** - We've gone through several conceptual revisions of this project. As the City Officials have noted, the scale of our proposal has changed dramatically. Our first proposed building started off much smaller than our current proposal. However, in the process of asking questions and trying to predict the future, we don't want to be short sighted and have to go through another building process in just a few years.
- i) **Shape** - We've been building buildings for 22 years as a company. We've built just about every size and shape of building one can imagine...*anything* is possible. However as a practical matter, rectangles are far and away the most economical way to build, and especially warehouses. Every corner, elevation change, and pitch change require more work and more engineering...adding to the cost per square foot. The more complex the structure, the more expensive the structure.
- j) **Location of Proposed Building** - Like stated earlier, anything is possible. We can figure out how to build an identically sized structure right in the middle of the lot. This would eliminate the need for a variance; however that comes at a cost to everyone. Our cost is largely inconvenience and inefficiency, but also some additional engineering the site. The cost is greater for our neighbors though. The volume of truck traffic and outdoor storage will increase along the property line because we will be forced to create a circular flow around the building and utilize the perimeter of the property for parking and equipment storage.
- k) **Maximizing Our Property** - Ultimately, we decided that erecting the largest building that still allows semi traffic is the most effective use of this property. As you see in our proposed site plan, our proposed size and location is just about as close as you can cut it, and still get a semi to turn around. It is possible to reduce the size of our proposed building by 10,000 sq. ft. and set it in from the property line, but the remaining land behind the building is useless.
- l) **Alternative Properties** - We have the land and space to build the size of building we need to build. Purchasing land in the city limits to build the same structure is too expensive and not feasible.
- m) **Moving our operations** - Moving has been considered, but we have what we need here, especially with an expansion, like our proposed building. The salability of our property is uncertain. We don't know that we can get out of the property what its value is to us right. And lastly, we'd like to think as an employer of 70+ people that we are a valuable asset to West Des Moines and our neighborhood and it's better for us to be here than to leave.
- n) **Security** - It hasn't been a concern recently, but unattended equipment and materials are a temptation often seen as a target for would-be thieves. Less stuff visible and accessible improves any security concerns we have.

As we address criteria for variance approval, we can't address one of the aforementioned factors without addressing them all because they are all connected. We have taken them all into account and are trying to make the best decision for all concerned. We appreciate your time and attention and look forward to discussion this in person.

Scott Wolfswinkel

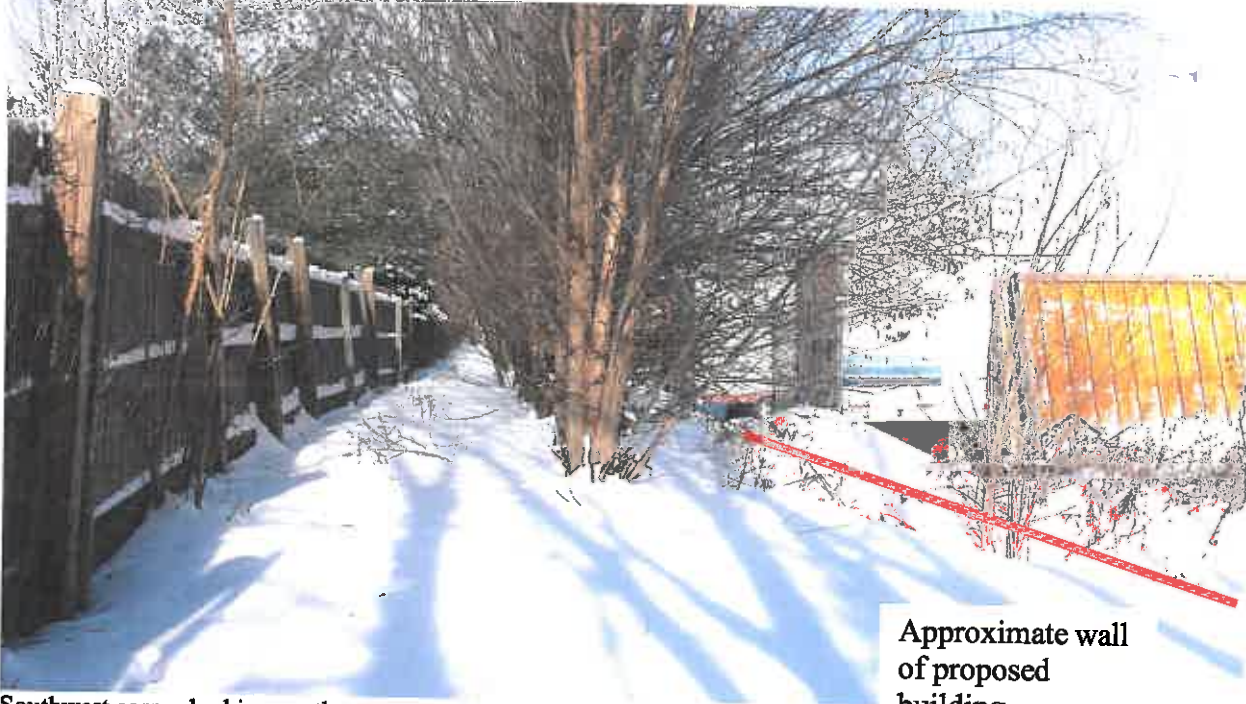
Wolf Construction/Wolf Oil Field Services

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Site Pictures



Northwest corner looking south



Southwest corner looking north

Approximate wall
of proposed
building

Approximate
location of
proposed building



Northeast corner looking Southwest



From the rear deck of 2509 Country Side Place